


AGENDA



Thursday, June 8, 2006

 + Back

**Zone Hearings/App Ordinances/Restrictive Covenants
RECOMMENDATION FOR COUNCIL
ACTION**

ITEM 102 PH

Subject: C14-06-0069 - Fifth & Congress - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 120 East 5th Street (Town Lake Watershed) from central business district (CBD) zoning to central business district - central urban redevelopment (CBD-CURE) combining district zoning. Planning Commission Recommendation: To grant central business district - central urban redevelopment combining district (CBD-CURE) zoning with conditions. Applicant: Walton Stacy Office partners (Tom Stacy). Agent: Armbrust & Brown LLP (Lynn Ann Carley). City Staff: Jorge E. Rousselin, 974-2975.

Additional Backup Material

(click to open)

 Staff Report

For More Information: Jorge E. Rousselin, 974-2975.

ZONING REVIEW SHEET**CASE:** C14-06-0069**P. C. DATE:** May 9, 2006**ADDRESS:** 120 East 5th Street**OWNER:** Walton Stacy Office Partners
(Tom Stacy)**AGENT:** Armbrust & Brown, LLP.
(Lynn Ann Carley)**REZONING FROM:** CBD (Central Business District)**TO:** CBD-CURE (Central Business District - Central Urban Redevelopment) combining district**AREA:** 0.3379 Acres (14,718.92 square feet)**SUMMARY PLANNING COMMISSION RECOMMENDATION:**

May 9, 2006:

APPROVED STAFF'S RECOMMENDATION FOR CBD-CURE-CO WITH CONDITIONS.***[J.REDDY, G.STEGEMAN 2ND] (8-0)*******COMMISSION REQUESTED FOR APPLICANT TO WORK WITH NEIGHBORHOOD HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT TO INCLUDE AFFORDABLE HOUSING.*****SUMMARY STAFF RECOMMENDATION:**

Staff recommends CBD-CURE (Central Business District - Central Urban Redevelopment) combining district with conditions. The CURE combining district shall modify the floor to area ratio (FAR) from 8:1 to 30:1. Under a public restrictive covenant, the daily vehicle trips shall be restricted to 14,221 trips per day. Furthermore, under a public restrictive covenant, the applicant shall submit an access study at the time of site plan in order to evaluate driveway functions for the proposed project; and participate, at owner's expense, in the Great Streets Program for portions of public right-of-way fronting the subject site that have not been improved to Great Streets standards.

The Staff recommendation is based on the following considerations:

- 1.) The proposed uses are compatible with existing CBD and commercial, office, retail, and mixed-use development along Fifth Street;
- 2.) The subject site lies within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines;
- 3.) The Downtown Austin Design Guidelines recommend providing dense, multi-tenant, pedestrian-oriented development at street level while encouraging the densification of the downtown core;
- 4.) The subject property lies within the downtown CURE district;
- 5.) The proposed development will not be subject to compatibility standards; and
- 6.) Great Streets Program participation via a public restrictive covenant, at owner's expense, has been recommended and approved by the City Council on CURE projects in the downtown core.

DEPARTMENT COMMENTS:

The subject property consists of a 0.3379 acre site (14,718.92 square feet) zoned CBD fronting Brazos Street and East 5th Street. The property is currently developed with offices and a bank. The application of the CURE combining district is proposed to modify the FAR from 8:1 to 30:1, yielding a maximum height range of 675 feet to 700 feet. The proposed redevelopment of the property includes a mixed-use tower with office, retail, and condominiums. In conjunction with the proposed rezoning application, the applicant will seek a partial vacation of the existing alley between Congress Avenue and Brazos Street. The proposed redevelopment of the property includes a demolition of existing structures with development of a mixed-use tower with office, retail, and condominiums. The site lies within the Congress Avenue National Register Historic District.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CBD-CURE	Offices / Bank
<i>North</i>	CBD-CURE	Offices / Hotel
<i>South</i>	CBD-CURE / CBD-H	Museum / Retail / Offices
<i>East</i>	CBD	Parking
<i>West</i>	CBD / CBD-H	Retail / Offices

WATERSHED: Town Lake**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** N/A**CONGRESS AVENUE DISTRICT:** N/A**CURE DISTRICT:** Yes**EAST 6TH STREET / PECAN DISTRICT:** N/A**6TH STREET NATIONAL REGISTER****HISTORIC DISTRICT:** Yes**NEIGHBORHOOD ORGANIZATIONS:**

23--Old Pecan Street Assn.
 402--Downtown Austin Neighborhood Assn. (DANA)
 438--Downtown Austin Alliance
 511--Austin Neighborhoods Council
 623--City of Austin Downtown Commission
 742--Austin Independent School District
 744--Sentral Plus East Austin Koalition (SPEAK)
 751--Pecan Street Owners Association
 767--Downtown Austin Neighborhood Coalition




SCHOOLS:

Austin Independent School District

- Matthews Elementary School
- O. Henry Middle School
- Austin High School

CASE HISTORIES: N/A

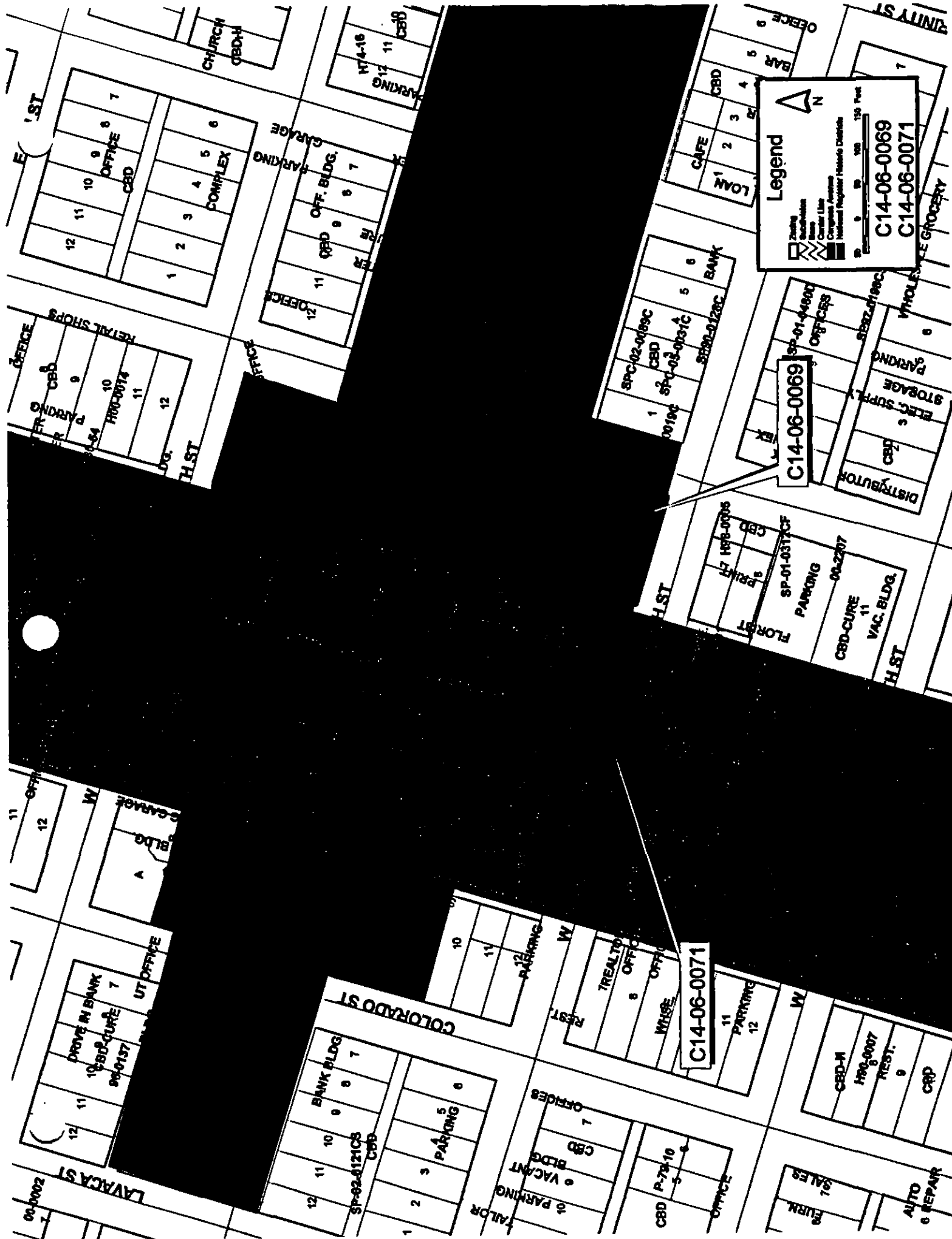


SUBJECT TRACT 
 PENDING CASE 
 ZONING BOUNDARY 
 CASE MGR: J. ROUSSELIN

ZONING
 CASE #: C14-06-0069
 ADDRESS: 120 E 5TH ST
 SUBJECT AREA (acres): 0.338
 DATE: 06-04
 INTLS: SM

CITY GRID
 REFERENCE
 NUMBER
 J22





STAFF RECOMMENDATION

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The Staff recommendation is based on the following considerations:

- 1.) The proposed uses are compatible with existing CBD and commercial, office, retail, and mixed-use development along Fifth Street;
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- 4.) The subject property lies within the downtown CURE district;
- 5.) The proposed development will not be subject to compatibility standards; and
- 6.) Great Streets Program participation via a public restrictive covenant, at owner's expense, has been recommended and approved by the City Council on CURE projects in the downtown core.

BASIS FOR RECOMMENDATION

1. The proposed zoning should be consistent with the purpose statement of the district sought.

LDC 25-2-311:

(A) The purpose of a central urban redevelopment (CURE) combining district is to promote the stability of neighborhoods in the central urban area.

(B) A CURE combining district may be used:

- (1) for sustainable redevelopment of homes, multifamily housing, and small businesses;
- (2) to accommodate high priority projects that enhance the stability of urban neighborhoods including the development of affordable housing and small businesses along principal transportation routes that serve a neighborhood;
- (3) to improve the natural environment; and
- (4) to encourage high quality development with architectural design and proportion compatible with the neighborhood.

The proposed rezoning meets the purpose statement set forth in the Land Development Code. The subject property is located within the designated CURE District and lies within the Core Downtown District as identified by the Downtown Austin Design Guidelines.

2. The proposed zoning should promote consistency, and orderly planning.

The proposed change and recommended conditional overlay is compatible with the surrounding area as it is surrounded by CBD zoning and adjacent to mixed-use and commercial development compatible to the proposed uses.

EXISTING CONDITIONS

Site Characteristics

The subject property consists of a 0.3379 acre site (14,718.92 square feet) zoned CBD fronting Brazos Street and East 5th Street. The property is currently developed with offices and a bank. The application of the CURE combining district is proposed to modify the FAR from 8:1 to 30:1, yielding a maximum height range of 675 feet to 700 feet. The proposed redevelopment of the property includes a mixed-use tower with office, retail, and condominiums. In conjunction with the proposed rezoning application, the applicant will seek a partial vacation of the existing alley between Congress Avenue and Brazos Street. The proposed redevelopment of the property includes a demolition of existing structures with development of a mixed-use tower with office, retail, and condominiums. The site lies within the Congress Avenue National Register Historic District.

Transportation

1. No additional right-of-way is needed at this time.
2. The trip generation under the requested zoning is estimated to be 14,221 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification and the proposed uses and sizes (without consideration of setbacks, environmental constraints, or other site characteristics).
3. The traffic impact analysis for this site was waived because no improvements have been identified by DPWT or WPDRD for the surrounding area. The applicant has agreed and is required to submit an access study at the time of site plan in order to evaluate driveway functions for the proposed project. The site is also limited to an unadjusted trip rate of 14,221 trips per day. These trips are for both C14-06-0069 and C14-06-0071 cumulatively. These two conditions should be included in a conditional overlay.

Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Town Lake Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.
4. According to flood plain maps, there is no flood plain within the project area.
5. At this time, the site is fully developed with impervious cover; therefore there are no environmental features.

6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Water and Wastewater

1. The site has existing City of Austin water and wastewater utility service.
2. If water or wastewater utility improvements, or offsite main extension, or system upgrades, or utility adjustments, or utility relocation are required, the landowner, at own expense, will be responsible for providing.
3. Also, the utility plan must be reviewed and approved by the Austin Water Utility.
4. The plan must be in accordance with the City design criteria.
5. The water and wastewater utility construction must be inspected by the City.
6. The landowner must pay the associated and applicable City fees.

Site Plan

1. The request for CURE zoning should also include any specific desired modifications to this overlay.



AUSTIN DESIGN COMMISSION

ELEANOR MCKINNEY
CHAIR

PHILLIP REED
VICE CHAIR

LIAN COTTERA
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GERARD KINNEY

PERRY LORENZ
JOHN C. PATTERSON
RICHARD WEISS

May 22, 2006

Mayor Will Wynn
Mayor Pro Tem Danny Thomas
Council Member Raul Alvarez
Council Member Betty Dunkerley
Council Member Jennifer Kim
Council Member Lee Leffingwell
Council Member Brewster McCracken

Re: 501 Congress

HOLLYANNE MELTON
STAFF LIAISON

Dear Mayor and Members of the City Council,

At a special called meeting on May 8th, the Design Commission received a presentation of the 501 Congress high-rise Mixed-Use project proposed by developer Tom Stacy. We wish to express our appreciation to Mr. Stacy and his representative, Mr. Richard Suttle for bringing this project forward to us very early in the process, so that we have the opportunity to comment at a time when the program is not yet fully developed and design decisions are not yet solidified.

The Commission is comfortable with the height, density and mix of uses proposed, especially the number of residences that are included. We appreciate the facts that the ground-floor retail on both blocks open onto the streets, that the structure east of Brazos will be considered to accommodate future additional uses above the garage levels, and that there is a stated commitment to include Great Streets amenities in the streetscapes of both blocks that comprise the project.

Our support of this project, however, is tempered with several deep concerns:


- **FLY-OVER:** The proposed "fly-over", connecting the Condo/Office/Hotel/Retail Tower with the Parking Garage across Brazos is in direct conflict with the Council-adopted Downtown Design Guidelines, which specifically prohibit fly-overs on Brazos Street, south of Sixth (Refer to P.34, Area Wide #6, "Protect Important Public Views"). The disruption of views down the street corridors and, more importantly, the fact that fly-overs divert pedestrians from the sidewalks were the primary motivators for this crucial prohibition in the Guidelines.
- **ALLEY CLOSURE:** The proposed closure of the north-south alley is in conflict with the intent of the provisions of the Guidelines (Goal #8 of the guidelines is "Create a Safe Downtown for Austin.") The Council has directed applicants to bring all proposed alley closings to the Design Commission. Vacation of the alley to allow the building to connect over it is not seen as a problem, but it is essential that it remain open to traffic in order to allow emergency and service vehicles to be able to continue through the block without having to back into or out of the alley onto Sixth

Street.

- **GARAGE:** The structure on the block from Brazos to San Jacinto needs to include occupied space at the east and west ends, overlooking and enlivening both Streets, and the garage levels need to be flat-floor to allow future conversion of some of the volume of the building to other uses as downtown becomes more transit oriented. P. 80, Guidelines for Buildings #6, "Create Quality Construction." The Commission refrains from offering specific design solutions, but notes that Flex-space (residences, live-work flats, artist studios, offices for small businesses, etc.) can be accommodated at each end of the structure, with adequate ceiling height afforded by using vertical pairs of garage levels. Such occupied space can share vertical circulation with the garage and there is the opportunity for each space to have extremely convenient adjacent parking.
- **GREAT STREETS MASTER PLAN:** In addition to Great Streets amenities, there needs to be a commitment to, and accommodation of, all aspects of the Great Streets Master Plan including eventual conversion of Brazos and San Jacinto to two-way traffic.

The Commission is concerned that if these issues are not resolved at this early stage as a condition of the requested Zoning Changes and Restrictive Covenant Waivers requested, it will be difficult or perhaps impossible to adequately address them at a later date.

Sincerely,



Eleanor McKinney, Chair
Austin Design Commission

Cc:

Laura Huffman, Assistant City Manager
Greg Guernsey, Director, Neighborhood Planning and Zoning
File

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.ci.austin.tx.us/development

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-06-0069

Contact: Jorge Rousselin, (512) 974-2975

Public Hearing:

May 9, 2006 Planning Commission

SHANE WIDNER (President)

Your Name (please print) of Hang 'Em High Saloon, LLC

201-205 E. 6TH ST, Austin, TX 78701

Your address(es) affected by this application

[Signature]

Signature

5/3/06

Date

Comments:

This will be an appropriate change for our area.

RECEIVED

MAY 09 2006

Neighborhood Planning & Zoning

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Jorge Rousselin

P. O. Box 1088

Austin, TX 78767-8810

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Case Number: C14-06-0069

Contact: Jorge Rousselin, (512) 974-2975

Public Hearing:

May 9, 2006 Planning Commission



1234M Chahine
Your Name (please print)

223 E 6th Street

Your address(es) affected by this application

[Signature]
Signature

5-1-06

Date

Comments:

N/A

RECEIVED

MAY 03 2006

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Jorge Rousselin

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Case Number: C14-06-0069

Contact: Jorge Rouscelin, (512) 974-2975

Public Hearing: ON BEHALF OF the BRACAS

May 9, 2006 Planning Commission

Elizabeth Joblin

Your Name (please print)

411 BRACAS #107

Your address(es) affected by this application

Elizabeth Joblin

Signature

Date

5-6-06

Comments:

Building inappropriate sized for 6th SD District. The residents who live in the area have not had a chance to review plans.

Block Capital View Corridor. Inappropriate scale & FAR to Planning Commission

RECEIVED

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Jorge Rouscelin

P. O. Box 1088

Austin, TX 78767-8810

MAY 09 2006

Neighborhood Planning & Zoning

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Case Number: C14-06-0069

Contact: Jorge Rousselin, (512) 974-2975

Public Hearing:

May 9, 2006 Planning Commission



Michael Chapman
Your Name (please print)

411 Barros Austin, TX 78701
Your address(es) affected by this application

Michael Chapman 5-9-06
Signature

April 26, 2006
Date

Michael Chapman
Comments

RECEIVED

MAY 09 2006

Neighborhood Planning & Zoning

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Jorge Rousselin

P. O. Box 1088

Austin, TX 78767-8810

RECEIVED

MAY 09 2006

May 9, 2006

Neighborhood Planning & Zoning

Planning Commissioners and Chairman Riley:

RE: Letter of Support (conditional) for the proposed Fifth & Congress Project (Rezoning Cases No. C14-06-0069 and No. C14-06-0071) on your May 9, 2006 Agenda (Item # 11)

Please let this letter serve as indication of the Downtown Austin Neighborhood Association's (DANA's) support of the requested rezoning from CBD to CBD-CURE on the two lots (120 East 5th and 501 N. Congress) on a conditional basis, which we explain below.

The DANA Steering Committee have met with the developer's representatives, and we feel that the requested zoning changes 69 and 71 (CBD to CBD-CURE) will allow for a significant addition to the residential stock of Downtown Austin, especially in a mixed-use building with retail development and a hotel and/or office space in "the mix". The height is very appropriate (and exciting) for this important corner of 5th & Congress; and the developers have employed a "world-class" design architect that will undoubtedly produce a building design fitting for this very prominent site in Downtown Austin.

We do have a number of concerns about what was presented to us by the development team, which causes us to offer "conditional" support of the requested zoning changes. These include:

1. We are probably most concerned about the proposal to build a 12-story parking garage at the corner of 5th & Brazos Streets. We recognize the need for parking generated by the proposed 700-foot tall mixed use building, and think the garage proposed is necessary and fine; and especially support the retail use proposed on the first floor of the garage. What we really think will be a "missed opportunity" is if there is no residential use (or other use) built above the parking garage. This block is one of those in the "high intensity, mixed-use triangle" of Downtown Austin that has no height/density restrictions; there needs to be multiple floors of another use above the proposed parking garage (perhaps not "matching" the proposed 700 foot tall tower across Brazos, but 400 to 500 foot tall is certainly appropriate, we feel). Another option to explore now, in the design phase of the project, is a certain amount of underground parking (since the development team has expressed concern of whether people are willing to park 12 stories up), under both buildings. Other recent downtown developments (the Hilton, Austin City Hall) have put all or a significant percentage of their parking underground. "Wrapping" the 5th Street elevation of the parking garage with residential units (in addition to building above the garage) is also an attractive option to us, especially if some underground parking is provided (to reduce the need to go 12 stories in the parking garage).
2. The pedestrian "flyover" (pedestrian bridge over Brazos Street) linking the proposed parking garage with the Tower is expressly against the Downtown Design Guideline's goal of "enlivening" downtown streets. Austin's climate doesn't call for this separation, and people parking in the garage can cross Brazos Street on the sidewalk to gain access to the Tower proposed.

The development team also asked for DANA's support for two more requests they feel they need to make this project work which DANA can't support; this includes a request to terminate the current Restrictive Covenant on their 5th & Congress site (your Rezoning Case No. C14-01-0029(RCT), Item #8 on your May 9th Agenda) and a request to vacate the existing public alleyway that runs north-south through the 5th & Congress block (bounded by 5th & 6th, Congress and Brazos). We can't support these requests because:

1. The Restrictive Covenant currently on the 5th & Congress portion of the proposed development is a covenant to provide a pedestrian arcade. Pedestrian arcades are strongly supported in the Downtown Austin Design Guidelines as to greatly increase pedestrian comfort on downtown streets, and as a way to insure street level retail has pedestrians walking by all times of the year in all types of weather. The development team has stated they can't sacrifice the floor space to provide an arcade; but there is no reason horizontal shade devices can't be added to the current building design extending out over the sidewalk on both Congress Avenue and 5th Streets (over the public right-of-way). This pedestrian overhead cover is so desired by the City of Austin that the City Ordinance (No. 030612-93) codifying certain portions of the Downtown Austin Design Guidelines (in 2003) provides for the annual license fee to be waived. The new proposed development should provide this pedestrian overhead cover and also get the annual license fee waived.
2. The alleyway shouldn't be vacated, or if it is, a permanent alleyway/drive through the building (running north-south, connecting 5th and 6th Streets) to insure services can be provided to the building and delivery trucks don't have to block traffic on either 6th or 5th Streets backing in to service loading/unloading areas. The recent Frost Bank building, and other downtown "full block" buildings have maintained a working alleyway (building above them, but saving the paved alley/drive, with height for delivery trucks) and are arguably much better developments for choosing to do so. The development team has argued saving this current alleyway would conflict with the elevator lobbies for the new Tower; but this conflict can certainly be solved through design (and the project is said to be in pre-design, not even schematic design, by the development team; now is the time to incorporate such community and City Commission desired changes to the presented project).

Let me state that DANA is incredibly excited by the "vision" that the development team (including Tom Stacy at T. Stacy & Associates) has for this project, especially its height/density and mixed-use nature. We just feel it can be improved, and hope the development team will not take our conditional support as project-killing criticism, but as constructive criticism; and that they will take the wishes of the community to heart in looking for ways to improve the design of the project.

Sincerely,

Andrew Clements (via e-mail)

Andrew Clements
President
Downtown Austin Neighborhood Association

ARMBRUST & BROWN, LLP.
ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
612-435-2300

FACSIMILE 612-435-2360

RICHARD T. SUTTLE
(512) 435-2310
rsuttle@ablaw.com

RECEIVED

MAY 31 2006

Neighborhood Planning & Zoning

May 31, 2006

Jorge Rousselin
City of Austin Zoning Review Department
505 Barton Springs Road, 5th Floor
Austin, Texas 78701

Re: Fifth & Congress (C14-06-0069 & C14-06-0071)

Dear Mr. Rousselin:

This letter is to inform you that we are still in negotiations with Paul Hilgers of the Neighborhood Housing and Community Development office regarding the affordable housing issue on the above-referenced project. We will provide City Council an update as negotiations proceed.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Richard T. Suttle, Jr.
Richard T. Suttle, Jr.

cc: Greg Strmiska
Tom Stacy